LANDLORD AND TENANT—BREACH OF LEASE—EVICTION.—Suit for rent of a hall, on a lease wherein defendant agreed to conduct it as a respectable dancing academy and ballroom. Defendant sublet the hall for two evenings to a colored dancing club. Lessor objected, and after negroes had used the hall one evening, lessor locked the doors. Defendant considered this an eviction and thereafter did not occupy under the lease. *Held,* that subletting to negroes was not a breach of the covenant; act of plaintiff was an eviction, and defendant is not liable for rent. *Central Business College Co.* v. *Rutherford et al.* (1910), — Colo. —, 107 Pac. 279.

Unless so stated in the lease, renting to negroes is not a violation of the covenant. The fact that sublessees are negroes does not of itself make them disreputable. U. S. Const. 14th Amend. To constitute an eviction, more than a mere trespass is necessary. There must be something of a grave and permanent character done by the landlord with the intention of depriving the tenant of the enjoyment of the demised premises. *Upton* v. *Townend,* 17 C. B. 30; *Meeker* v. *Spalsbury,* 66 N. J. L. 60; TAYLOR, LANDLORD AND TENANT, § 309. Any act of the landlord which deprives his tenant of that beneficial enjoyment of the premises to which he is entitled under the lease is in law an eviction. *Peck* v. *Hiler,* 14 How. Pr. (N. Y.) 155 A lessee sued for rent may defeat the landlord's claim by proving an eviction. *Edgerton* v. *Page,* 20 N. Y. 281; *Heinrich* v. *Mack,* 56 N. Y. Supp. 155; *Fuller* v. *Ruby,* 10 Gray 285. While the rules announced in the principal case have long been settled, the facts are unique among cases on the subject.

LIFE ESTATES—TAX TITLE—DESTRUCTION OF REMAINDER.—A bill in equity alleges that A and wife, life tenants under a will, being indebted to B, agreed with B that he might pay the taxes on the estate, take a tax deed therefor and collect the rents and profits until such time as the income had discharged the indebtedness, when he should reconvey to A, thus destroying the remainder. B paid the taxes for five years but conveyed to a bona fide holder, instead of reconveying to A, when he received his collector's deed. Plaintiffs, the remaindermen, now file a bill against the bona fide holder praying that the tax deeds be cancelled and an accounting rendered. *Held,* failure to prove fraudulent agreement between A and B, therefore, plaintiffs cannot recover. *Solis* v. *Williams et al.* (1910), — Mass. —, 91 N. E. 148.

The title of the remainderman cannot be destroyed by any act of the life tenant. *Hall* v. *Condon,* (1909) — Ala. —, 51 South 20. A tenant for life cannot make any contract or agreement which will bind the remainderman or his estate. 16 CYC. 641; *Chilvers* v. *Race,* 196 Ill. 71. A life tenant must pay all the ordinary taxes on the premises during the continuance of his estate in the absence of an agreement or provision in the instrument creating the estate relieving him from that liability. 16CYC. 632; *Jeffers* v. *Sydnam,* 129 Mich. 440. As it is the duty of the life tenant to keep down the taxes on the property a sale of the latter for taxes will reach only the life estate. *Stovall* v. *Austin,* 84 Tenn. (16 Lea.) 700. A mortgagee of a life estate, in possession and enjoying the income of the mortgaged property, cannot, as against the remainderman, acquire a tax title based on taxes accruing

during his occupancy. *Wiswell* v. *Simmons,* 77 Kan. 622; 95 Pac. 407; *Lohmuller* v. *Mosher,* 74 Kan. 751. A life tenant, being charged with the duty of paying the taxes, cannot destroy the estate of the remainderman by permitting it to be sold for taxes and taking title directly or through a third party who has acquired it. *First Congregational Church of Cedar Rapids* v. *Terry,* 130 Ia. 513, 114 Am. St. Rep. 443. The writer has been able to find no case which says or even implies that a third person might not acquire a good tax title to the property even where there is apparent acquiescence on the part of the life tenant. An estate for life may be mortgaged to pay taxes (*Whitfield* v. *Lyon,* 93 Miss. 443, 46 South 545), and where the life tenant fails to pay taxes and the estate is sold for taxes the remainderman can recover only against the life tenant. *Watkins* v. *Green,* 101 Mich. 493. If both the life estate and remainder is destroyed by a valid tax sale to a stranger the remainderman has a personal remedy against the delinquent life tenant. WASHBURN, REAL PROPERTY, Ed. 6 § 243. The weight of authority is clearly with the principal case but the question suggests itself, if the life tenant cannot thus destroy the remainder directly why should the remainderman's interest be destroyed by the tenant's carelessness and acquiescence, as appears in this case?

LITERARY PROPERTY—DRAMATIC RIGHTS—DAMAGES.—The complainant sold to the S. Co. a story, entitled "The Transmogrification of Dan," which was published in the Smart Set, all articles therein being covered by a general copyright of the magazine. The defendant presented throughout the country a play "The Heir to the Hoorah," the theme of which was the same as that of the foregoing story, but the characters, etc., were changed. The complainant filed a bill for an alleged infringement of the copyright on the ground that the dramatic rights remained in him, making affidavit to that effect. In the amended bill he alleged simply a sale to the S. Co., and an assignment back to him. *Held,* that the sale to the company carried with it, as an incident, the right to dramatize, that this right had been infringed by the defendant, and that the complainant as assignee could recover all profits made by the defendant from the production of the play. WARD, Circuit Judge, dissenting. *Dam* v. *Kirk La Shelle Co.* (1910), — C. C. A., 2nd Cir. —, 175 Fed. 902.

If the complainant had retained the dramatic rights in the story sold, as he contented in the original bill, the entry of the magazine and notice of copyright would have been insufficient to protect them. *Mifflin* v. *White,* 190 U. S. 260, 23 Sup. Ct. 769, 47 L. Ed. 1040; *Thompson* v. *Hubbard,* 131 U. S. 123, 9 Sup. Ct. 710, 33 L. Ed. 76. But by Rev. St. 4952, as amended in 1891 (U. S. Comp. St. 1901 p. 3406) all rights of dramatization passed to S. Co., assuming that the transfer in the first instance was an absolute sale. Notwithstanding the complainant's affidavit filed to secure a preliminary injunction, in which he stated that he had not parted with any interest except the right of publication in a number of the Smart Set, the court construes, "in full payment for story" to pass an absolute title, and S. Co.'s copyright therefore covered all rights. As assignee, complainant succeeded to such rights. The dissenting judge admits the correctness of the conclusion, assuming the